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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/587,197	06/05/00	CARTNER	CRT 2 0017

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EXAMINER

PETRAVICK, M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 08/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Applicati n No.

09/587,197

Applicant(s)

CARTNER, JACK O.

Examiner

Meredith C Petravick

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 5, 11-12, 22, 29 objected to because of the following informality: all of the claims contain multiple occurrence of the limitation "said deck at least three sides." This limitation should be -- said at least three sides--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 31 and 34-36 is rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. 3,369,350 (Rogers).

Rogers discloses a mower head including:

- a deck (16) having at least four sides
- at least one cutting blade (72)
- a guard (30)
- a hinge (Fig.2)
- a holding member (38) or linkage assembly

The hinge and guard extend between two sides at an obtuse angle. (Fig.2)

In regards to claim 34, the guard has a first wall, which is a straight edge (26).

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In regards to claim 36, the linkage assembly (38) includes a first flange (40) and a second flange (44).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5 -15, 18-23 and 26-33 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Thagard et al. 5,657,620 (Thagard).

Rogers discloses the claimed invention including:

- a deck (16) having at least four sides (Fig. 2)
- at least one side wall (20,22, 50)
- at least one cutting blade (72)
- an actuating member (38)
- a guard (30, 32)

However, Rogers fails to disclose having a guard with a depending flap and making the actuating member a hydraulic cylinder and piston.

Like Rogers, Thagard discloses a mower with a pivoting guard on one side. Unlike Rogers, Thagard uses a hydraulic cylinder and piston (382) to lift the guard. Thagard states, "One particularly preferred moving means is hydraulic means responsive to manual or operator actuation." (Column 9, lines 21-23) Thagard also provides a folding guard (360) with a flap

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(364). The folding guard allows the cutting blade to be exposed enough to allow for cutting operations. (Column 2, lines 62-65).

It would have been obvious to one of ordinary skill to make the actuating member of Roger the hydraulic cylinder and piston and the guard of Roger the folding guard with flap as in Thagard, in order to provide an easy means for operating the guard and to allow the blade to be exposed enough for cutting operations.

In regards to claims 3, 14 and 28, the deck has a flap (34) depending from one of the sides.

In regard to claims 5 and 29, two sides are normal to each other and a third is at an obtuse angle in relation to two others. (Fig. 2)

In regards to claim 6 and 30, a hinge extending between the sides pivotally mounts the guard to deck.

In regards to claims 11-12, 21-22, the deck has one side comprised of a plurality of angled sections (26, 24) and the guard has a plurality of angled sections.

In regards to claim 13, two of the sidewalls are rigid (20,22).

6. Claims 1, 3, ~~4~~, 6, 9, 11, 13-14, ~~16~~¹⁷, 18, 20, 21, ~~24~~²⁵-28, 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gullett 4,378,668 in view of Stevens 4,282,704.

Gullett discloses a mower head including:

- a deck (14) having at least four sides
- side walls
- a guard (24)

- an actuating member (23, 27)

However, Gullett discloses a rigid wall attached to the guard instead of a flap.

Like Gullett, Stevens discloses a mower with a guard. Unlike Gullett, Stevens makes the downward wall on the guard a flap. This allows the flap to fold inward in the raised position so that cutting blades are further exposed and the mower may be used in for cutting operations. (Column 3, lines 37-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the downward wall on the guard of Gullett a flap as in Stevens, in order to allow the mower to straddle material to perform cutting operations.

In regards to claims 3, 20 and 28, the deck of Gullett further comprises a flap (22) depending from a sidewall.

In regards to claim 4, the back wall of the guard is straight. The front wall has a plurality of curved sections. (Fig. 1)

In regards to claim 6 and 30, the guard is attached to the deck by a hinge (33).

In regards to claims 11 and 21, one of the sides (20) has a plurality of angled sections.

In regards to claims 13-14, some of the sidewalls are rigid and some are flaps (22).

In regards to claims 16-18 and 24, the top surface of the guard and the top surface of the deck are in different planes. (Fig. 2)

In regards to claim 17 and 25, an extension protrudes under the guard. (Fig. 2)

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

MCP
August 2, 2001